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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,239	09/23/2005	Alexander W. M. Bailey	080422-000000US	2209
20350	7590	10/12/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/550,239	BAILEY, ALEXANDER W. M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hanh V. Tran	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/23/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is the First Office Action on the Merits from the examiner in charge of this application.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in claim 1, lines 5-6 of "each portion extends separately" must be shown or the feature(s) canceled from the claim(s) (the drawings show that they are connecting to each other at the central webs.) No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5, 8, and 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 5 and 13, the recitation "and/or" is vague and indefinite for failing to clearly define the metes and bounds of the claimed invention. Since claim 5, since recited that the webs are "releasably securable" to other elements by fastening means, the recitation in claim 8 of the fastening means are "welds" renders the claim indefinite; it is not clear how welds are "releasably securable".

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 9-14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT/AU85/00159 to Dash.

Dash discloses a metal pallet comprising a top deck 40, a bottom deck 21, at least two elongate bearers 13 securing said decks together, each bearer having a first portion and a second portion (wherein the first and second portions are defined as the

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left and right hand sides of the bearer 13 in the assembled configuration such as shown in Fig 4), each portion extends between the decks and has a top web 35 and a bottom web 35 connected to a central web 32 by inclined portions 33-34, wherein at least one edge includes, such as shown in Fig 1, a cover plate, a stiffener and an end cap, wherein each said top and bottom deck is of a profiled configuration, wherein said profiled configuration are corrugations.

7. Claims 1, 3-5, 9, 11, 13, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,662,048 to Kralj et al.

Kralj et al discloses a metal pallet comprising, such as shown in Figs 1-2, a top deck 1, a bottom deck 2, at least two elongate bearers 3-5 securing said decks together, each bearer having a first portion and a second portion (wherein the first and second portions are defined as the left and right hand sides of the bearer in the assembled configuration such as shown in Fig 2), each portion extends between the decks and has a top web and a bottom web connected to a central web by inclined portions, wherein said central web is substantially normal to said decks, top and bottom are releasably secured to the decks by a fastening means, a stiffener 34, and cavities for receipt of tines of forklift are located on all sides of the pallet.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 2-8, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dash in view of USP 4,240,360 to Sanders et al.

Dash discloses all the elements as discussed above except for the webs are releasably secured to the decks by fastening means of threaded fasteners or rivets, and a sheet material secured to at least one of said decks.

Sanders teaches the idea of using releasable fastening means of rivets or removable clips for securing elements of a metal; wherein the releasable fastening means allows the pallet to knock-down for spaced saving purpose. Therefore, it would have been obvious to modify the structure of Dash by providing releasable fastening means of threaded fasteners or rivets in order to allow the pallet to knock-down for spaced saving purpose, as taught by Sanders et al, since both teach alternate conventional pallet structure, used for the same intended purpose, thereby providing structure as claimed. In regard to a sheet secured to at least one of said decks, the examiner takes the position that it would have been obvious and well within the level of one skill in the art to provide at least one of the decks with a sheet secured thereto in order to provide a flat supporting deck, when so is desired. Further, it has been held

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that constructing a formerly integral structure in various elements involves only routine skill in the art.

***Conclusion***

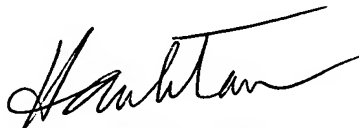
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lacabanne, Marr et al, Hance, Dunn et al, Schleicher, Gomez, Clark, Miller, Klowksi, and Svirklys all show structures similar to various elements of applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HVT

October 1, 2006

**Hanh V. Tran**  
**Art Unit 3637**